

**ENTERED**

February 25, 2020

David J. Bradley, Clerk

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION

ANTONE RICHIE,

Plaintiff,

v.

THOMAS A. MARTIN, *et al.*,

Defendants.

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CIVIL ACTION NO. H-20-503

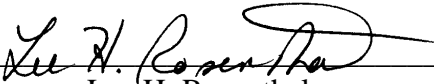
**MEMORANDUM AND ORDER**

Antone Richie, inmate in the Texas Department of Criminal Justice, filed suit under 42 U.S.C. § 1983, alleging civil rights violations in a state-court postconviction proceeding. Richie has not paid the filing fee. Under the Prison Litigation Reform Act of 1995, a prisoner who has had three or more prisoner actions dismissed by federal courts as frivolous or malicious may not file another action without prepaying the filing fee, unless the prisoner shows imminent danger. 28 U.S.C. § 1915(g); *Adepegba v. Hammons*, 103 F.3d 383, 385 (5th Cir. 1996). Richie has had at least four such dismissals. He is no longer allowed to proceed without prepaying fees unless he can show imminent danger. *See Richie v. Puryear*, No.1:93-cv-108 (N.D. Tex.); *Richie v. Elleson*, No. 4:95-cv-4570 (S.D. Tex.); *Richie v. Wacker*, No. 6:95-cv-573 (E.D. Tex.); *Richie v. Richards*, No. 4:93-cv-3324 (S.D. Tex.). Richie's filing does not allege any facts showing that he faces an immediate danger of harm that warrants waiving the fee requirement. *See Choyce v. Dominguez*, 160 F.3d 1068, 1071 (5th Cir. 1998); *Banos v. O'Guin*, 144 F.3d 883, 884 (5th Cir. 1998).

Richie argues that § 1915(g) is unconstitutional because it counts strikes obtained during a previous term of incarceration, making no provision for inmates who complete a sentence and are later imprisoned again. He provides no reason why it is unconstitutional to apply strikes incurred during a prior term of incarceration, and he cites no authority holding § 1915(g) unconstitutional.

In light of the pleadings and his litigation history, Richie fails to show that he is eligible to proceed without prepaying fees. This action is dismissed under 28 U.S.C. § 1915(g).

SIGNED on February 24, 2020, at Houston, Texas.

  
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Lee H. Rosenthal  
Chief United States District Judge